

“The public’s right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private.”

RCW 42.17.010(10)

BRIEF ENFORCEMENT HEARINGS

You have received a letter scheduling a brief enforcement hearing (brief adjudicative proceeding) before the Public Disclosure Commission. You are the Respondent. Here are responses to Frequently Asked Questions about these hearings.

This brochure is informational only and should not be considered legal advice.

• What is a brief enforcement hearing (brief adjudicative proceeding)?

The PDC may schedule a “brief enforcement hearing” (formally known as a “brief adjudicative proceeding”) when there is, for example, an alleged:

- (a) Failure to file or late filing of required reports,
- (b) Failure to report or accurately report campaign contributions or expenditures or funds spent on lobbying,
- (c) Use of public office facilities in election campaigns when the value of public funds expended was minimal,
- (d) Infractions of political advertising law regarding sponsor identification or political party identification.

Brief hearings may be scheduled on other matters as well, if it is anticipated that the

possible penalty imposed (if a violation of law or rule is found) will be \$500 or less.

The hearing will be conducted by a PDC commissioner (presiding officer), who is the chair of the Commission or other commissioner. PDC staff will present its case to the presiding officer. You also have the opportunity to appear at the hearing and explain what has happened. You may do this in person, by phone, or in writing by email or letter.

• What can I do to avoid the hearing?

If your hearing notice included information about paying a penalty now and filing a report to avoid a hearing, you may follow the instructions in the letter to avoid the hearing. Contact the PDC staff person referenced in the letter if you have questions.

• What do I do to prepare for the hearing?

You are not required to have an attorney for this hearing and most persons represent themselves, but it is your choice. Be at the scheduled place at the scheduled time for the hearing. If you are participating in writing or by telephone, make sure any written materials you want the presiding officer to consider are at the PDC no later than the day before the hearing.

In person participation. If you are attending in person, bring all of the information that you want the presiding officer to use in making a decision, including written materials (three copies of each --- one for you, one for the PDC staff, and one for the presiding officer), or otherwise submit them to the PDC so they are received before the day of the hearing. If you are having other persons (witnesses) testify, they must also be available at the hearing at the scheduled time and place. The scheduled starting time is an estimate of time (as more than one hearing will

be conducted that day) and you will need to remain until your case is called.

Telephone participation. If you wish to participate by phone, let PDC staff know in advance where you can be reached. See the PDC staff contact information in your letter. You must be available at the designated time and place/telephone number. This is an estimate of time (as more than one hearing will be conducted that day) so you must be available until your case is called. No call-backs will be made if you do not answer the phone or are not available.

Participation in writing. As noted, if you wish to participate in writing instead, by email or letter, the written materials must be received by the PDC before the day of the hearing.

It will be presumed that you will be participating in person if the PDC receives nothing in writing from you prior to the hearing or if you have made no other arrangements prior to the hearing for telephone participation, or through written materials. If you have submitted nothing in writing prior to the hearing, have made no other arrangements, and you do not appear in person or through your legal counsel at the hearing, it will be presumed that you have decided to waive your participation.

• What happens at the hearing?

The presiding officer will introduce the people at the hearing and explain the procedure for the hearing. PDC staff will present information regarding the alleged violation of law or rule. You will have an opportunity to present information relevant to your case. Testimony is given under oath. The hearing will have a structure to which you must conform, but it is informal enough so that non-lawyers can effectively present their case. If you have

decided to participate in writing, that written information will be considered by the presiding officer.

At the time of the hearing if the presiding officer believes the alleged violations are of such magnitude as to merit penalties greater than \$500, the presiding officer will immediately adjourn the hearing and direct the matter be scheduled for an adjudicative proceeding (hearing) at a later time, before the full Commission.

- **How is the decision made?**

The decision is normally made orally by the presiding officer at the hearing. The presiding officer may consider a penalty schedule for some alleged violations. The resulting written decision, called an initial order, will be sent to you within 10 business days.

- **What happens after my hearing?**

As described, you will receive a written initial order. A monetary penalty may be imposed in this initial order. If imposed, the penalty will be payable to the Washington State Treasurer but should be mailed to the PDC. With your initial order you will receive information on how to appeal and request review by the full Commission if you disagree with the order. Follow those procedures carefully if you wish to appeal. If there is no appeal before the PDC, the order becomes the final order. Further appeals can be made only in court.

- **What are the rules that apply to the procedures of my hearing?**

The PDC's laws and rules are available on the PDC's website at www.pdc.wa.gov under "Guide to the Law." The laws are in the Revised Code

of Washington (RCW) Chapter 42.17. The rules are in the Washington Administrative Code (WAC) Title 390.

Brief adjudicative proceedings are described at WAC 390-37-140 through 390-37-150 and in the Administrative Procedure Act (APA) at RCW 34.05.482-.494.

- **Who can I contact at the PDC if I have other questions?**

See the PDC staff contact information in your letter. The *toll-free number* is: 1-877-601-2828. The PDC's address, fax and main phone number (not toll-free) is: Public Disclosure Commission - 711 Capitol Way #206 - PO Box 40908 - Olympia, WA 98504-0908.

Phone: (360) 753-1111; *Fax:* (360) 753-1112

Brief Enforcement Hearing Information



Washington State Public Disclosure Commission
711 CAPITOL WAY RM 206
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Toll Free 1-877-601-2828